

Concerning the management of invasive species

Review Draft 2

v. 9/13/13

Send Comments/Questions to:

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Table of Contents

(Green highlighted section cells are generic terrestrial/aquatic)
(Yellow highlighted section numbers are new for this draft)

PART 1 –Invasive Species - - Management [NEW CHAPTER]			
Sec. 101	3	NEW	Findings
Sec. 102	4	NEW	Definitions
Sec. 103	8	NEW	General provisions
Sec. 104	10	NEW	Invasive species classification system
Sec. 105	11	NEW	Interim classification management (uncodified)
Sec. 106	12	NEW	Prohibited acts
Sec. 107	12	NEW	Quarantine declaration
Sec. 108	13	NEW	Rapid response orders – Prohibited level 1 invasive species
Sec. 109	14	NEW	Infested site management plans – Prohibited level 2 invasive species
Sec. 110	15	NEW	Rapid response and infested site management action provisions
Sec. 111	16	NEW	Emergency measures – Prohibited level 1 and level 2 invasive species
Sec. 112	17	NEW	Aquatic conveyances being brought into state
Sec. 113	18	NEW	Clean and drain requirements
Sec. 114	19	NEW	Mandatory check stations
Sec. 115	20	NEW	Decontamination requirements
Sec. 116	21	NEW	Request for hearing
Sec. 117	22	NEW	Inspection and decontamination stations
Sec. 118	22	NEW	Authorized representative designation
Sec. 119	23	NEW	AIS prevention account
Sec. 120	23	NEW	Transfer AIS enforcement account from WSP to WDFW (uncodified)
Sec. 121	23	NEW	AIS enforcement account
Sec. 122	24	NEW	AIS local management grant program
Sec. 123	24	NEW	Aquatic conveyance permit program
Sec. 124	26	NEW	Aquatic conveyance permit fees
Sec. 125	28	Amendment	Motor Vessel Excise Tax distribution (not part of chapter)
Sec. 126	28	NEW	Liberally construed
Sec. 127	28	NEW	Designation of new Title 77 RCW chapter (uncodified)
PART 2 - Invasive Species - - Enforcement [NEW SECTIONS]			
Sec. 201	29	NEW	Fish and Wildlife officers - - AIS inspection authority
Sec. 202	29	NEW	Fish and Wildlife officers - - Criminal search, arrest warrant
Sec. 203	30	NEW	Fish and Wildlife officers - - Administrative search, arrest warrant

Sec. 204	30	Amendment	77.15.160: Infractions
Sec. 205	34	NEW	Unlawful use of invasive species - - Second degree - - Penalties
Sec. 206	36	NEW	Unlawful use of invasive species - - First degree - - Penalties
PART 3 –Invasive Species - - Technical Provisions [AMENDMENTS/REPEALS]			
Sec. 301	37	Amendment	77.08.010: Definitions; NOTES: Purpose - - 2002 c 281;
Sec. 302	46	Amendment	77.12.020: Wildlife to be classified
Sec. 303	48	Amendment	77.12.047: Scope of commission's authority to adopt rules
Sec. 304	50	Amendment	77.15.080: Fish and Wildlife officers - - Inspection authority
Sec. 305	50	Amendment	77.15.290: Unlawful transportation of fish or wildlife - - Unlawful transport of aquatic plants - - Penalty
Sec. 306	52	Amendment	43.06.010: [Governor] General powers and duties
Sec. 307	54	Amendment	43.43.400: WSP AIS enforcement account and program
Sec. 308	55	Amendment	10.31.100: Probable cause
Sec. 309	59	Amendment	RCW 88.02.560: [DOL Watercraft] Application — Form and contents
Sec. 310	61	Amendment	RCW 88.02.640: [DOL Watercraft] Fees by type — Disposition, distribution
Sec. 311	65	Repeal	77.12.875: Prohibited aquatic animal species - - Infested state waters
		Repeal	77.12.878: Infested state waters - - Rapid response plan
		Repeal	77.12.879: Aquatic invasive species prevention account - - Aquatic invasive species prevention program for recreational and commercial watercraft - - Enforcement program - - Check stations - - Training - - Signage
		Repeal	77.12.882: Aquatic invasive species - - Inspection of recreational and commercial watercraft- - Rule- - Signage
		Repeal	77.15.253: Unlawful use of prohibited aquatic animal species - - Penalties
		Repeal	77.15.293: Unlawfully avoiding aquatic invasive species check stations - - Penalty
		Repeal	77.60.110: Zebra mussels and European green crabs - - Draft rules - - Prevention of introduction and dispersal
		Repeal	77.60.120: Infested waters - - List published

NOTE: This version of the draft proposed invasive species legislation contains significant changes based on stakeholder comments. The majority of changes are non-substantive revisions (in respect to department authorities) provided to clarify intent. The rapid response and infested site management authorities now in Sections 107-110 have been completely rewritten to clarify authorities and responsibilities. The recommended AIS local management grant program is in Section 122 and recommended funding options are in Sections 123-125.

PART 1**INVASIVE SPECIES--MANAGEMENT**

NEW SECTION. **Sec. 101.** The legislature finds that:

(1) The state's fish, wildlife, and habitat are exceptionally valuable environmental resources for the state's citizens.

(2) The state's fish, wildlife, and habitat also provide exceptionally valuable economic, cultural, and recreational resources. These include hydroelectric power, agriculture, forests, water supplies, commercial and recreational fisheries, aquaculture, and public access to outdoor recreational opportunities.

(3) Invasive species pose a grave threat to these environmental and economic resources, especially to salmon recovery and state and federally listed threatened and endangered species. Because of the significant harm invasive species can cause, invasive species constitute a public nuisance.

(4) If allowed to become established, invasive species can threaten human health and cause environmental and economic disasters affecting not only our state, but other states and nations.

(5) The risk of invasive species spreading into Washington increases as travel and commerce grows in volume and efficiency. The risk of the invasive species becoming established and causing harm increases as climate change makes Washington more hospitable to invasive species.

(6) Prevention of invasive species is a cost-effective, successful, and proven management strategy. Prevention is the state's highest management priority with an emphasis on education and outreach, inspections, and rapid response.

(7) The integrated management of invasive species through pathways regulated by the department is critical to preventing the introduction and spread of a broad range of such species, including plants, diseases, and parasites.

(8) Washington's citizens must work together to protect the state from invasive species.

(9) Public and private partnerships, cooperative agreements, and compacts are important for preventing new arrivals and managing existing populations of invasive species, and coordinating these actions on local, state, national, and international levels.

(10) The department requires authority for this mission to effectively counter the unpredictable nature of invasive species' introductions and spread, enable the utilization of new advances in invasive ecology science, and implement applicable techniques and technology to address invasive species.

(11) An integrated management approach provides the best way for the state to manage invasive species and includes opportunities for creating an informed public, encouraging public involvement, and striving for local, regional, national, and international cooperation and consistency on management standards. An integrated management approach also applies sound science to minimize the chance that invasive species used for beneficial purposes will result in environmental harm.

(12) This chapter provides authority for the department to effectively address invasive species using an integrated management approach.

NEW SECTION. **Sec. 102.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Aquatic conveyance" means personal property used or placed in an aquatic environment and having the potential to transport an aquatic invasive species from one place to another. Aquatic conveyances may include watercraft and associated equipment, float planes, construction equipment, fish tanker trucks, hydroelectric and irrigation equipment, personal fishing and hunting gear, and materials used for aquatic habitat mitigation or restoration.

(2) "Aquatic invasive species" or "AIS" means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include nutria, waterfowl, amphibians, fish, and shellfish.

(3) "Certificate of inspection" means a department-approved document that declares, to the extent technically or measurably possible, that an aquatic conveyance does not carry or contain an invasive species. Certification may be in the form of decals, labels, rubber stamp imprints, tags, permits, locking seals, and written statements.

(4) "Clean and drain" means to remove the following from areas on or within an aquatic conveyance to the extent technically and measurably possible:

(a) Visible native and nonnative aquatic animals, plants, or other organisms; and

(b) Raw water.

(5) "Commercial watercraft" means a management category of aquatic conveyances:

(a) Not subject to watercraft registration requirements under chapter 88.02 RCW; and

(b) Required to have valid marine documentation as a vessel of the United States or similar required documentation for a country other than the United States.

(6) "Cryptogenic species" means a species that scientists cannot commonly agree are native or nonnative or are part of the animal kingdom.

(7) "Decontaminate" means, to the extent technically and measurably possible, the application of a treatment to kill, destroy, remove or otherwise eliminate all known or suspected invasive species carried on or contained within an aquatic conveyance or structural property by use of physical, chemical, or other methods. Decontamination treatments may include drying an aquatic conveyance for a time sufficient to kill aquatic invasive species through desiccation.

(8) "Detect" means the verification of invasive species' presence as defined by the department.

(9) "Eradicate" means, to the extent technically and measurably possible, to kill, destroy, remove, or otherwise eliminate an invasive

species from a water body or property using physical, chemical, or other methods.

(10) "Introduce" means to intentionally or unintentionally release, place, or allow the escape, dissemination, or establishment of an invasive species on or into a water body or property as a result of human activity or a failure to act.

(11) "Invasive species" means nonnative species of the animal kingdom that are not naturally occurring in Washington for purposes of breeding, resting, or foraging, and that pose an invasive risk of harming or threatening the state's environmental, economic, or human resources. Invasive species include all stages of species development and body parts. They may also include genetically modified or cryptogenic species.

(12) "Invasive species council" means the Washington invasive species council established in RCW 79A.25.310 or a similar collaborative state agency forum. The term includes the council and all of its officers, employees, agents, and contractors.

(13) "Mandatory check station" means a location where a person transporting an aquatic conveyance must stop and allow the conveyance to be inspected for aquatic invasive species.

(14) (a) "Possess" means to have authority over the use of a water body or property and includes actual and constructive possession.

(i) "Actual possession" is when a person has physical control and authority over the use of a water body or property that may carry or contain an invasive species.

(ii) "Constructive possession" is when a person does not have physical control of a water body or property that may carry or contain an invasive species but has authority over the use of that water body or property.

(b) For the purposes of this subsection, "authority over" includes the ability to import, export, transport, purchase, sell, barter, distribute, propagate, or destroy any item of property.

(15) "Prohibited species" means a classification category of nonnative species as provided in section 104 of this act.

(16) "Property" means both real and personal property.

(17) "Rapid response" means expedited management actions triggered when invasive species are detected, for the time-sensitive purpose of containing or eradicating the species before it spreads or becomes further established.

(18) "Raw water" means water from a water body and held on or within property. "Raw water" does not include water from precipitation that is captured in a conveyance, structure, or depression that is not otherwise intended to function as a water body, or water from a potable water supply system, unless the water contains visible aquatic organisms.

(19) "Regulated species" means a classification category of nonnative species as provided in section 104 of this act.

(20) "Registered watercraft" means a management category of aquatic conveyances required to register as vessels under RCW 88.02.550 or similar requirements for a state other than Washington or a country other than the United States.

(21) "Seaplane" means a management category of aquatic conveyances capable of landing on or taking off from water and required to register as aircraft under RCW 47.68.250 or similar registration in a state other than Washington or a country other than the United States.

(22) "Small watercraft" means a management category of aquatic conveyances:

(a) Including inflatable and hard-shell watercraft used or capable of being used as a means of transportation on the water, such as kayaks, canoes, sailboats, and rafts that:

(i) Do not meet watercraft registration requirements under chapter 88.02 RCW; and

(ii) Are ten feet or more in length with or without mechanical propulsion or less than ten feet in length and fitted with mechanical propulsion.

(b) Excluding nonmotorized aquatic conveyances of any size not designed or modified to be used as a means of transportation on the

water, such as inflatable air mattresses and tubes, beach and water toys, surf boards, and paddle boards.

(23) "Water body" means an area that carries or contains a collection of water, regardless of whether the feature carrying or containing the water is natural or nonnatural. Examples include basins, bays, coves, streams, rivers, springs, lakes, wetlands, reservoirs, ponds, tanks, irrigation canals, and ditches.

NEW SECTION. **Sec. 103.** (1) The department is the lead agency for managing invasive species of the animal kingdom statewide. This lead responsibility excludes invasive pests, domesticated animals, or livestock managed by the department of agriculture under Titles 15, 16, and 17 RCW, forest invasive insect and disease species managed by the department of natural resources under Title 76 RCW, and mosquito and algae control and shellfish sanitation managed by the department of health under Titles 69, 70, and 90 RCW.

(2) Subject to the availability of funding for these specific purposes, the department may:

(a) Develop and implement integrated invasive species management actions and programs authorized by this chapter, including rapid response, early detection and monitoring, prevention, containment, control, eradication, and enforcement:

(b) Establish and maintain an invasive species outreach and education program, in coordination with the Washington invasive species council, which covers public, commercial, and professional pathways and interests;

(c) Align management classifications, standards, and enforcement provisions by rule with regional, national, and international standards and enforcement provisions; and

(d) Manage invasive species to support the preservation of native species, salmon recovery, and the overall protection of threatened or endangered species.

(e) Participate in local, state, regional, national, and international efforts regarding invasive species to support the intent of this chapter; and

(f) Provide technical assistance or other support to tribes, federal agencies, local governments, and private groups to promote an informed public and assist the department in meeting the intent of this chapter.

(g) Enter upon any public or private water body, property, or aquatic conveyance, for the purpose of inspecting and decontaminating aquatic conveyances, surveying, collecting samples, containing, controlling, or eradicating invasive species.

(h) Enter into partnerships, cooperative agreements, and state or interstate compacts as necessary to accomplish the intent of this chapter.

(i) Research and develop invasive species management tools including standard methods for decontaminating aquatic conveyances and controlling or eradicating invasive species from water bodies and properties.

(j) Adopt rules as needed to implement the provisions of this chapter.

(3) The department may delegate selected and clearly identified elements of its authorities and duties to another agency of the state with appropriate expertise or administrative capacity upon cooperative agreement with that agency. Such delegation may include provisions of funding for implementation of the delegations. The department shall retain primary authority and responsibility for all requirements of this chapter unless otherwise directed herein.

(4) This chapter does not apply to the possession or introduction of aquatic invasive species by ballast water where managed by the department under chapter 77.120 RCW, unless the introduction is in violation of ballast water discharge requirements and the aquatic invasive species are classified as prohibited level 1 or level 2 species.

(5) This chapter does not preempt or replace other department species classification systems or their permit or other requirements under Title 77 RCW. However, the department must streamline invasive species requirements under this chapter into existing permits and cooperative agreements as possible.

NEW SECTION. **Sec. 104.** (1) The department, in consultation with the invasive species council, may classify or reclassify and list by rule prohibited species as level 1, level 2, or level 3, based on the degree of invasive risk, the type of management action required, and resources available to conduct the management action.

(a) Species classified as prohibited level 1 pose a high invasive risk and are a priority for prevention and expedited rapid response management actions.

(b) Species classified as prohibited level 2 pose a high invasive risk and are a priority for long term infested site management actions.

(c) Species classified as prohibited level 3 pose a moderate to high invasive risk and may be appropriate for prevention, rapid response, or other prohibited species management plan actions by the department, another agency, a local government, tribes, or the public.

(2) The department, in consultation with the invasive species council, may classify and list by rule regulated type A species. This classification is used for species that pose a unknown to moderate invasive risk that can be managed based on intended use or geographic scope of introduction, have a beneficial use, and are a priority for department-led or department-approved management of the species' beneficial use and invasive risks.

(3) Species not classified as prohibited level 1, level 2, or level 3 under subsection (1) of this section, or as regulated type A species under subsection (2) of this section, are automatically managed statewide as regulated type B species or regulated type C species and do not require listing by rule.

(a) Species managed as regulated type B pose a low or unknown invasive risk and are possessed for personal or commercial purposes, such as for aquariums, live food markets, or as nondomesticated pets.

(b) Species managed as regulated type C pose a low or unknown invasive risk and include all other species that do not meet the criteria for management as a regulated type B invasive species.

(4) Classification of prohibited and regulated species:

(a) May be by individual species or larger taxonomic groups up to the family name;

(b) Must align, as practical and appropriate, with regional and national classification levels;

(c) Must be statewide unless otherwise designated by a water body, property, or other geographic region or area; and

(d) May define general possession and introduction conditions acceptable under department authorization, a permit, or as otherwise provided by rule.

(5) Prior to or at the time of classifying species by rule as prohibited or regulated under subsections (1) and (2) of this section, the department, in consultation with the invasive species council, must adopt rules establishing standards for determining invasive risk levels and criteria for determining beneficial use that take into consideration environmental impacts, and especially effects on the preservation of native species, salmon recovery, and threatened or endangered species.

NEW SECTION. **Sec. 105.** (1) Until the department adopts rules classifying species pursuant to chapter 77--- RCW (the new chapter created in section 127 of this act), species and classifications identified in this section are automatically managed as follows:

(a) Zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena rostriformis bugensis*), European green crab (*Carcinus maenas*), and all members of the genus *Eriocheir* (including Chinese mitten crab), all members of the walking catfish family (*Clariidae*), all members of the snakehead family (*Channidae*), silver carp

(*Hypophthalmichthys molitrix*), largescale silver carp (*Hypophthalmichthys harmandi*), black carp (*Mylopharyngodon piceus*), and bighead carp (*Hypophthalmichthys nobilis*) are prohibited level 1 species statewide;

(b) Prohibited aquatic animal species classified under WAC 220-12-090(1), in effect on July 1, 2013, except those as noted in this subsection are prohibited level 3 species statewide;

(c) Regulated aquatic animal species classified under WAC 220-12-090(2), in effect on July 1, 2013, are regulated type A species statewide; and

(d) Nonnative aquatic animal species classified as game fish under WAC 232-12-019, in effect on July 1, 2013, or food fish under WAC 220-12-010, in effect on July 1, 2013, are regulated type A species statewide.

(2) The department, in consultation with the invasive species council, may change these classifications by rule.

NEW SECTION. **Sec. 106.** (1) Prohibited level 1, level 2, and level 3 species may not be possessed, introduced on or into a water body or property, or trafficked without department authorization, a permit, or as otherwise provided by rule.

(2) Regulated type A, type B, and type C species may not be introduced on or into a water body or property without department authorization, a permit, or as otherwise provided by rule.

(3) Regulated type B species, when being actively used for commercial purposes, must be readily and clearly identified in writing by taxonomic species name or subspecies name to distinguish the subspecies from another prohibited species or a regulated type A species. Nothing in this section precludes using additional descriptive language or trade names to describe regulated type B species as long as the labeling requirements of this section are met.

NEW SECTION. **Sec. 107.** (1) If the department determines it is necessary to protect the environmental, economic, or human health

interests of the state from the threat of a prohibited level 1 or level 2 species, the department may declare a quarantine against a water body, property, or region within the state. The department may prohibit or condition the movement of aquatic conveyances and waters from such quarantined places or areas that are likely to contain such prohibited species.

(2) A quarantine declaration under this section may be implemented through rapid response management actions under section 108 of this act and infested site management actions under section 109 of this act in a manner and for a duration necessary to protect the interests of the state from the threat of a prohibited level 1 or level 2 species. A quarantine declaration must include:

- (a) The reasons for the action;
- (b) The boundaries of the area affected;
- (c) The action timeline;
- (d) Types of aquatic conveyances and waters affected by the quarantine and any prohibition or conditions on the movement of those aquatic conveyances and waters from the quarantine area; and
- (e) Inspection and decontamination requirements for aquatic conveyances.

NEW SECTION. **Sec. 108.** (1) The department may implement rapid response management actions where a prohibited level 1 species is detected in or on a water body or property. Rapid response management actions may include a quarantine declaration and expedited actions to contain, control, or eradicate the prohibited species. Rapid response management actions shall be terminated by the department when it determines that the targeted prohibited level 1 species are:

- (a) Eradicated;
- (b) Contained or controlled without need for further management actions;
- (c) Reclassified for that water body; or
- (d) Being managed under infested site management actions pursuant to section 109 of this act.

(2) If a rapid response action exceeds seven days, the department may implement an incident command system for rapid response management including scope, duration, and types of actions, and to support mutual assistance and cooperation between the department and other affected state and federal agencies, tribes, local governments, and private water body or property owners. The purpose of this system is to coordinate a rapid, effective, and efficient response to contain, control, and eradicate if feasible, a prohibited level 1 species. Mutual assistance and coordination by other state agencies is especially important to assist the department in expediting necessary state and federal environmental permits.

(3) The department may enter into cooperative agreements with national, regional, state, and local rapid response management action partners to establish incident command system structures, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments in preparation for potential future actions.

(4) The department may perform simulated rapid response exercises, testing, or other training activities to prepare for future rapid response management actions.

NEW SECTION. **Sec. 109.** (1) The department may implement infested site management actions where a prohibited level 2 species is detected in or on a water body or property. Infested site management actions may include a quarantine declaration and long term actions to contain, control, or eradicate the prohibited species. Infested site management actions shall be terminated by the department when it determines that the targeted prohibited level 2 species are:

(a) Eradicated;

(b) Contained or controlled without need for further management actions;

(c) Reclassified for that water body.

(2) The department must consult with affected state and federal agencies, tribes, local governments, and private water body or property owners prior to implementing infested site management

actions. The purpose of the consultation is to support mutual assistance and cooperation in providing an effective and efficient response to contain, control, and eradicate if feasible, a prohibited level 2 species.

(3) The department may enter into cooperative agreements with national, regional, state, and local infested site management action partners to establish management responsibilities, secure or prepare submission-ready environmental permits, and identify mutual assistance commitments.

(4) The department, in consultation with the invasive species council, may establish rules governing when the department may require the owners of a water body or property with a prohibited level 2 species to develop and implement infested site management actions.

NEW SECTION. **Sec. 110.** (1) To the extent possible, the department's rapid response management actions under section 108 of this act and infested site management actions under section 109 of this act must be implemented in a manner best suited to contain, control, and eradicate prohibited level 1 and level 2 species while protecting human safety, minimizing adverse environmental impacts to a water body or property, and minimizing adverse economic impacts to owners of an affected water body or property.

(2) The department is the lead agency for rapid response and infested site management actions on a water body or property under state jurisdiction. Where the state does not have jurisdiction or jurisdiction for a water body is shared, the department:

(a) Must consult with appropriate federal agencies, tribal governments, other states, and Canadian government entities to develop and implement coordinated management actions on affected water bodies under shared jurisdiction;

(b) May assist in infested site management actions on affected water bodies fully under tribal or federal jurisdiction where such actions may prevent the spread of prohibited species into water bodies under state jurisdiction;

(c) May assist other states and Canadian government entities, in the Columbia river basin, in management actions where such actions may prevent the spread of the species into Washington.

(3) The department must provide notice of rapid response and infested site management actions to owners of an affected water body or property where such actions last longer than seven days. Notice may be served in person or through regular mail to the owners' addresses as shown on the property records of the county assessor. The department must provide updates to owners of an affected water body or property based on management action type as follows: every seven days for rapid response management actions; on an annual basis for the duration of an infested site management action; and a final update at the conclusion of either management action. Updates may be provided by any reasonable means, such as in person, by United States Postal Service, by publication in a local newspaper, by electronic publication including social media or postings on the department's public website, or by posting signs at the water body.

(4) The department must publicly list those water bodies or portions of water bodies in which a prohibited level 1 or level 2 species has been detected. The department may list those areas in which a prohibited level 3 species has been detected.

(5) When posting signs at a water body or property where a prohibited species has been detected, the department must consult with owners of the affected water body or property regarding placement of those signs.

NEW SECTION. **Sec. 111.** (1) If the director finds that there exists an imminent danger of a prohibited level 1 or level 2 species detection that seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, the director must ask the governor to order, under section 306(14) of this act, emergency measures to prevent or abate the prohibited species. The director's findings must contain an evaluation of the effect of the emergency measures on environmental factors such as endangered

species act fish, economic factors such as public and private access, human health factors such as water quality, or well-being factors such as cultural resources.

(2) If an emergency is declared pursuant to section 306(14) of this act, the director may consult with the invasive species council to advise the governor on emergency measures necessary under section 306(14) of this act and this section, and make subsequent recommendations to the governor. The invasive species council must involve owners of the affected water body or property, state and local government, federal agencies, tribes, public health interests, technical service providers, and environmental organizations, as appropriate.

(3) Upon the governor's approval of emergency measures, the director may implement these measures to prevent, contain, control, or eradicate invasive species that are the subject of the emergency order. These measures, after evaluation of all other alternatives, may include the surface and aerial application of pesticides. The director also may enter into agreements with individuals, companies, tribes, or agencies to accomplish the prevention, containment, control, or eradication of the invasive species, notwithstanding the provisions of chapter 15.58 or 17.21 RCW or any other statute.

(4) The director must continually evaluate the effects of the emergency measures and report these to the governor at intervals of not less than ten days. The director must immediately advise the governor if the director finds that the emergency no longer exists or if certain emergency measures should be discontinued.

NEW SECTION. **Sec. 112.** (1) A person in possession of an aquatic conveyance who enters Washington by road, air, or water is required to have a certificate of inspection. A person must provide this certification if stopped by a fish and wildlife officer or ex officio fish and wildlife officer for an enforcement action such as where required to stop at a mandatory check station.

(2) The department must establish rules to implement this section including:

(a) Types of aquatic conveyances required to have a certificate of inspection;

(b) Allowable certificate of inspection forms including passport type systems; and

(c) Situations when authorization can be obtained for transporting an aquatic conveyance not meeting inspection requirements to a specified location within the state where certificate of inspection requirements can be provided.

NEW SECTION. **Sec. 113.** (1) A person in possession of an aquatic conveyance must meet clean and drain requirements after the conveyance's use in or on a water body or property if stopped by a fish and wildlife officer or ex officio fish and wildlife officer for an enforcement action such as where required to stop at a mandatory check station. A certificate of inspection is not needed to meet clean and drain requirements.

(2) A fish and wildlife officer or ex officio fish and wildlife officer may order a person transporting an aquatic conveyance in violation of the rules adopted pursuant to subsection (1) of this section to:

(a) Clean and drain the conveyance at the discovery site, if the department determines there are sufficient resources available; or

(b) Transport the conveyance to a reasonably close location where resources are sufficient to meet the clean and drain requirements.

(3) The department must establish rules to implement this section including:

(a) Types of aquatic conveyances subject to this requirement;

(b) When transport of an aquatic conveyance is authorized if clean and drain services are not readily available at the last water body used; and

(c) Exemptions to clean and drain requirements where the department determines there is minimal risk of spreading invasive species.

(4) Additional management actions may be required under rapid response management actions pursuant to section 108 of this act, infested site management actions pursuant to section 109 of this act, or emergency measures pursuant to section 111 of this act.

NEW SECTION. **Sec. 114.** (1) The department may establish mandatory check stations to inspect aquatic conveyances for clean and drain requirements and aquatic invasive species. The check stations must be operated by at least one fish and wildlife officer, an ex officio fish and wildlife officer in coordination with the department, or department-authorized representative, and must be plainly marked by signs and operated in a safe manner.

(2) Aquatic conveyances required to stop at mandatory check stations include registered watercraft, commercial watercraft, and small watercraft. The department may establish rules governing other types of aquatic conveyances that must stop at mandatory check stations. The rules must provide sufficient guidance so that a person transporting the aquatic conveyance readily understands that he or she is required to stop.

(3) A person who encounters a mandatory check station while transporting an aquatic conveyance must:

(a) Stop at the mandatory check station;

(b) Allow the aquatic conveyance to be inspected for clean and drain requirements and aquatic invasive species;

(c) Follow clean and drain orders if clean and drain requirements are not met pursuant to section 113; and

(d) Follow decontamination orders pursuant to section 115 of this act if an aquatic invasive species is found.

(4) A person who complies with the department directives under this section is exempt from criminal penalties under sections 205 and 206 of this act, civil penalties under RCW 77.15.160(4), and civil

forfeiture under RCW 77.15.070, unless the person has a prior conviction for an invasive species violation within the past five years.

NEW SECTION. **Sec. 115.** (1) Upon discovery of an aquatic conveyance that carries or contains an aquatic invasive species without department authorization, a permit, or as otherwise provided by rule, a fish and wildlife officer or ex officio fish and wildlife officer may:

(a) Order decontamination at the discovery site, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are available at the discovery site;

(b) Order prohibition on the launch of the aquatic conveyance in a water body until decontamination is completed and certified, if the situation presents a low risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site;

(c) Order immediate transport of the conveyance to an approved decontamination station, and prohibit the launch of the conveyance in a water body until decontamination is completed and certified, if the situation presents a moderate risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site; or

(d) Seize and transport the aquatic conveyance to an approved decontamination station until decontamination is completed and certified, if the situation presents a high risk of aquatic invasive species introduction, and sufficient department resources are not available at the discovery site.

(2) The person possessing the aquatic conveyance that is subject to orders issued under subsection (1)(b) through (d) of this section must bear any costs for seizure, transportation, or decontamination.

(3) Orders issued under subsection (1)(b) through (d) of this section must be in writing and must include notice of the opportunity

for a hearing pursuant to section 116 of this act to determine the validity of the orders.

(4) If a decontamination order is issued under subsection (1)(d) of this section, the department may seize the aquatic conveyance for two working days or a reasonable additional period of time thereafter as needed to meet decontamination requirements. The decontamination period must be based on factors including conveyance size and complexity, type and number of aquatic invasive species present, and decontamination station resource capacity.

(5) If an aquatic conveyance is subject to forfeiture under RCW 77.15.070, the timelines and other provisions under that section apply to the seizure.

(6) Upon decontamination and issuing a certificate of inspection, an aquatic conveyance must be released to the person in possession of the aquatic conveyance at the time the decontamination order was issued, or to the owner of the aquatic conveyance.

NEW SECTION. **Sec. 116.** (1) A person subject to a rapid response management action under section 108 of this act, an infested site management action under section 109 of this act, or a decontamination order under section 115 of this act may contest the validity of the department's actions by requesting a hearing in writing within twenty days of the department's actions. Hearings will be conducted pursuant to chapter 34.05 RCW and the burden of demonstrating the invalidity of agency action is on the party asserting invalidity. The hearing may be conducted by the director or the director's designee and may occur telephonically.

(2) A hearing on a decontamination order will be limited to the issues of whether decontamination was necessary and the reasonableness of costs assessed for any seizure, transportation, and decontamination. If the person in possession of the aquatic conveyance that was decontaminated prevails at the hearing, he or she is entitled to reimbursement by the department for any costs assessed by the department or decontamination station operator for the seizure,

transportation, and decontamination. If the department prevails at the hearing, the department is not responsible for and will not reimburse any costs.

NEW SECTION. **Sec. 117.** (1) The department may operate aquatic conveyance inspection and decontamination stations statewide for voluntary use by the public or for mandatory use where directed by the department to meet inspection and decontamination requirements of this chapter. Decontamination stations can be part of or separate from inspection stations. Inspection and decontamination stations are separate from commercial vehicle weigh stations operated by the Washington state patrol.

(2) Inspection station staff must inspect aquatic conveyances to determine whether the conveyances carry or contain aquatic invasive species. If an aquatic conveyance is free of aquatic invasive species, then inspection station staff must issue a certificate of inspection. A certificate of inspection is valid until the conveyance's next use in a water body.

(3) If a conveyance carries or contains aquatic invasive species, then inspection station staff must require the conveyance's decontamination before issuing a certificate of inspection. The certificate of inspection is valid until the conveyance's next use in a water body.

(4) The department must identify, in a way that is readily available to the public, the location and contact information for inspection and decontamination stations.

(5) The department must adopt by rule standards for inspection and decontamination that, where practical and appropriate, align with regional, national, and international standards.

NEW SECTION. **Sec. 118.** (1) The department may authorize representatives to operate its inspection and decontamination stations and mandatory check stations. Department-authorized representatives

may be department volunteers, other law enforcement agencies, or independent businesses.

(2) The department must adopt rules governing the types of services that department-authorized representatives may perform under this chapter.

(3) Department-authorized representatives must have official identification, training, and administrative capacity to fulfill their responsibilities under this section.

(4) Within two years following the effective date of this section, the department must provide the legislature with recommendations for a fee schedule that department-authorized representatives may charge for inspection and decontamination services.

NEW SECTION. **Sec. 119.** (1) The aquatic invasive species prevention account is created in the state treasury. All receipts directed to the account from fees collected under RCW 88.02.640, fees collected under sections 123 and 124 of this act, and revenues collected under section 125 of this act, as well as legislative appropriations, gifts, donations, fees, and penalties for aquatic invasive species prevention received under this chapter must be deposited into the account.

(2) Expenditures from the account may only be used to implement the provisions of this chapter.

(3) Moneys in the account may be spent only after appropriation.

NEW SECTION. **Sec. 120.** All moneys in the aquatic invasive species enforcement account created in RCW 43.43.400 are transferred to the aquatic invasive species enforcement account created in section 121 of this act.

NEW SECTION. **Sec. 121.** (1) The aquatic invasive species enforcement account is created in the custody of the state treasurer. All receipts directed to the account from fees collected under RCW 88.02.640, fees collected under sections 123 and 124 of this act, and

revenues collected under section 125 of this act, as well as legislative appropriations, gifts, donations, fees, and penalties for aquatic invasive species enforcement received under this chapter must be deposited into the account.

(2) Expenditures from the account may be used for training fish and wildlife officers and ex officio fish and wildlife officers, and other actions as necessary, to implement the enforcement program provisions of this chapter.

(3) Moneys in the account may be spent only after appropriation.

NEW SECTION. **SEC. 122.** (1) Funds in the aquatic invasive species prevention account may be appropriated to the department to establish an aquatic invasive species local management grant program. Grant funding is provided through section 125 of this act up to one million dollars annually. Funds must be expended as competitive grants to cities, counties, tribes, special purpose districts, academia, and state agencies to:

- (a) Manage prohibited level 1 or level 2 aquatic species;
- (b) Develop rapid response management plans or implement rapid response orders for local water bodies; or
- (c) Develop or implement prohibited species management plans for local water bodies.

(2) The department may give preference to projects having matching funds, provide in-kind services, or maintain or enhance outdoor recreational opportunities.

NEW SECTION. **Sec. 123.** (1) A person must possess a valid resident aquatic conveyance permit for a small watercraft, commercial watercraft, or seaplane placed or used on water bodies of the state as provided under this section. A "resident" means a person meeting resident qualifications under RCW 77.08.075. A permit is required by:

- (a) Small watercraft: Each resident person placing or using a small watercraft on a water body, except, only one permit is

required for a multiple person small watercraft and no permit is required if using a small watercraft owned by a resident licensed business or nonresident licensed business. Resident aquatic conveyance permits for small watercraft are transferable between residents.

(b) Commercial watercraft: Each watercraft registered or numbered as a commercial vessel of the United States. Resident aquatic conveyance permits for commercial watercraft are nontransferable.

(c) Seaplane: Each seaplane registered as an airplane in Washington. Resident aquatic conveyance permits for seaplanes are nontransferable.

(2) A person must possess a valid nonresident aquatic conveyance permit for a nonresident watercraft, small watercraft, commercial watercraft, or seaplane placed or used on water bodies of the state as provided under this section. A "nonresident" means a person not meeting resident qualifications under RCW 77.08.075. A permit is required by:

(a) Nonresident watercraft: Each watercraft registered or numbered under a state other than Washington or a country other than the United States.

(b) Nonresident small watercraft: Each nonresident person placing or using a small watercraft on a water body, except, only one permit is required for a multiple person small watercraft and no permit is required if using a small watercraft owned by a resident licensed business or nonresident licensed business. Nonresident aquatic conveyance permits for small watercraft are transferable between nonresidents.

(c) Nonresident commercial watercraft: Each watercraft registered or numbered as a commercial vessel of a country other than the United States. Nonresident aquatic conveyance permits for commercial watercraft are nontransferable.

(d) Nonresident seaplane: Each seaplane registered as an airplane in a state other than Washington or a country other than

the United States. Nonresident aquatic conveyance permits for seaplanes are nontransferable.

(3) Exemptions for resident aquatic conveyance and nonresident aquatic conveyance permits include:

(a) Nonresident watercraft having valid state of Idaho or Oregon registration or numbering while being used on concurrent state waters;

(b) A military vessel owned by the United States government;

(c) A public vessel owned by the United States government, unless the vessel is a type used for recreation;

(d) A vessel clearly identified as being:

(i) Owned by a state, county, or city; and

(ii) Used primarily for governmental purposes.

(4) The department may require resident and nonresident aquatic conveyances in part or whole to display a readily visible form of certification that identifies permit compliance. Prior to implementing this subsection, the department must adopt rules on certification type and display requirements.

(5) The department may adopt a regional reciprocity or passport system by rule to replace the nonresident aquatic conveyance permit in part or whole. A reciprocity or passport system may be implemented to exempt a person from another state or country from requiring the purchase of a nonresident aquatic conveyance permit where the participating state or country does not require a Washington resident to purchase an equivalent nonresident aquatic conveyance permit. To qualify, a person must have a valid resident aquatic conveyance permit or similar system from their state of origin.

NEW SECTION. Sec. **124.** (1) Resident and nonresident aquatic conveyance permits are valid through December 31 of the year of issue and may be obtained from the department other agent or subagent appointed by the director.

(2) Fees for resident aquatic conveyance permits required under section 123(1) of this act are:

(a) Ten dollars for small watercraft, commercial watercraft, and seaplanes;

(b) Resident licensed businesses with six to ten small watercraft are thirty dollars;

(c) Resident licensed businesses with eleven to twenty small watercraft are fifty dollars;

(d) Resident licensed business with twenty one or more small watercraft are one hundred dollars;

(3) Fees for nonresident aquatic conveyance permits required under section 123(2) of this act are:

(a) Twenty five dollars for nonresident watercraft, nonresident small watercraft, nonresident commercial watercraft, and nonresident seaplanes;

(b) Nonresident licensed business with six to ten small watercraft are fifty dollars;

(c) Nonresident licensed business with eleven to twenty small watercraft is seventy five dollars;

(d) Nonresident licensed business with twenty one or more small watercraft are two hundred dollars;

(4) In addition to the permit fees under subsections (2) and (3) of this section, the department may charge the following fees:

(a) A fifty cent dealer fee; and

(b) A ten percent transaction fee.

(5) Fees collected under this section must be distributed as follows:

(a) Sixty-five percent of the permit fees must be deposited into the aquatic invasive species prevention account created in section 119 of this act; and

(b) Thirty-five percent of the permit fees must be deposited into the aquatic invasive species enforcement account created in section 121 of this act.

(c) Dealers may retain fifty cents of fees collected pursuant to this section; and

(d) Transaction fees must be deposited into the state wildlife account under RCW 77.12.170 for the actual costs of administering the permit program.

(6) If a resident or nonresident aquatic conveyance permit is lost, stolen or destroyed, any permit remnants shall be returned to the dealer along with a three dollar fee for a duplicate permit.

Sec. **125.** RCW 82.49.030 and 2010 c 161 § 1045 are each amended to read as follows:

(1) The excise tax imposed under this chapter is due and payable to the department of licensing, county auditor or other agent, or subagent appointed by the director of the department of licensing at the time of registration of a vessel. The department of licensing shall not issue or renew a registration for a vessel until the tax is paid in full.

(2) Eighty (80) percent of the excise tax collected under this chapter must be deposited in the general fund.

(3) Twenty (20) percent of the excise tax collected under this chapter must be distributed as follows:

(a) Sixty-five (65) percent must be deposited into the aquatic invasive species prevention account created in section 119 of this act; and

(b) Thirty-five (35) percent must be deposited into the aquatic invasive species enforcement account created in section 121 of this act.

NEW SECTION. **Sec. 126.** The provisions of this chapter must be liberally construed to carry out the intent of the legislature.

NEW SECTION. **Sec. 127.** Sections 101 through 104, 106 through 119, and 120 through 124, and 126 of this act constitute a new chapter in Title 77 RCW.

PART 2**INVASIVE SPECIES--ENFORCEMENT**

NEW SECTION. **Sec. 201.** A new section is added to chapter 77.15 RCW to read as follows:

(1) Based upon reasonable suspicion that a person possesses an aquatic conveyance that has not been cleaned and drained or carries or contains aquatic invasive species in violation of this title, fish and wildlife officers or ex officio fish and wildlife officers may temporarily stop the person and inspect the aquatic conveyance for compliance with the requirements of this title.

(2) Based upon reasonable suspicion that a person possesses an aquatic conveyance and failed to stop at a mandatory check station, fish and wildlife officers or ex officio fish and wildlife officers may temporarily stop the person and inspect the aquatic conveyance for compliance with the requirements of this title, or order the person to return to the check station.

(3) Based upon reasonable suspicion that a person is transporting an aquatic conveyance in violation of a quarantine declaration under sections 108 or 109 of this act, fish and wildlife officers or ex officio fish and wildlife officers may temporarily stop the person and inspect the aquatic conveyance.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and section 102 of this act apply throughout this section.

NEW SECTION. **Sec. 202.** A new section is added to chapter 77.15 RCW to read as follows:

(1) Upon a showing of probable cause that there has been a violation of an invasive species law of the state of Washington, or upon a showing of probable cause to believe that evidence of such a violation may be found at a place, a court must issue a search warrant or arrest warrant. Fish and wildlife officers or ex officio fish and wildlife officers may execute any such search or arrest warrant

reasonably necessary to carry out their duties under this title with regard to an invasive species law and may seize invasive species or any evidence of a crime and the fruits or instrumentalities of a crime as provided by warrant. The court may have property opened or entered and the contents examined.

(2) Seizure of property as evidence of a crime does not preclude seizure of the property for forfeiture as authorized by law.

NEW SECTION. **Sec. 203.** A new section is added to chapter 77.15 RCW to read as follows:

(1) Upon a showing of probable cause that a water body or property has an invasive species in or on it, and the owner refuses permission to allow inspection of the water body or property, a court in the county in which the water body or property is located may, upon the request of the director or his or her designee, issue a warrant to the director or designee authorizing the taking of specimens of invasive species, general inspection of the property or water body, and the performance of containment, eradication, or control work.

(2) Application for issuance, execution, and return of the warrant authorized by this section shall be in accordance with the applicable rules of the superior courts or the district courts.

(3) Any person who improperly prevents or threatens to prevent inspection of a water body or property as authorized in this section is guilty of unlawful interfering in department operations under RCW 77.15.360.

Sec. 204 RCW 77.15.160 and 2013 C 307 S 2 are each amended to read as follows:

The following acts are infractions and must be cited and punished as provided under chapter 7.84 RCW:

(1) Fishing and shellfishing infractions:

(a) Barbed hooks: Fishing for personal use with barbed hooks in violation of any department rule.

(b) Catch recording: Failing to immediately record a catch of fish or shellfish on a catch record card as required by RCW 77.32.430 or department rule.

(c) Catch reporting: Failing to return a catch record card to the department for other than Puget Sound Dungeness crab, as required by department rule.

(d) Recreational fishing: Fishing for fish or shellfish and, without yet possessing fish or shellfish, the person:

(i) Owns, but fails to have in the person's possession the license or the catch record card required by chapter 77.32 RCW for such an activity; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of fishing for fish or shellfish. This subsection does not apply to use of a net to take fish under RCW 77.15.580 or the unlawful use of shellfish gear for personal use under RCW 77.15.382.

(e) Seaweed: Taking, possessing, or harvesting less than two times the daily possession limit of seaweed:

(i) While owning, but not having in the person's possession, the license required by chapter 77.32 RCW; or

(ii) In violation of any rule of the department or the department of natural resources regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of taking, possessing, or harvesting of seaweed.

(f) Unclassified fish or shellfish: Taking unclassified fish or shellfish in violation of any department rule by killing, fishing, taking, holding, possessing, or maliciously injuring or harming fish or shellfish that is not classified as game fish, food fish, shellfish, protected fish, or endangered fish.

(g) Wasting fish or shellfish: Killing, taking, or possessing fish or shellfish having a value of less than two hundred fifty dollars and allowing the fish or shellfish to be wasted.

(2) Hunting infractions:

(a) Eggs or nests: Maliciously, and without permit authorization, destroying, taking, or harming the eggs or active nests of a wild bird not classified as endangered or protected. For purposes of this subsection, "active nests" means nests that contain eggs or fledglings.

(b) Unclassified wildlife: Taking unclassified wildlife in violation of any department rule by killing, hunting, taking, holding, possessing, or maliciously injuring or harming wildlife that is not classified as big game, game animals, game birds, protected wildlife, or endangered wildlife.

(c) Wasting wildlife: Killing, taking, or possessing wildlife that is not classified as big game and has a value of less than two hundred fifty dollars, and allowing the wildlife to be wasted.

(d) Wild animals: Hunting for wild animals not classified as big game and, without yet possessing the wild animals, the person owns, but fails to have in the person's possession, all licenses, tags, or permits required by this title.

(e) Wild birds: Hunting for and, without yet possessing a wild bird or birds, the person:

(i) Owns, but fails to have in the person's possession, all licenses, tags, stamps, and permits required under this title; or

(ii) Violates any department rule regarding seasons, closed areas, closed times, or any other rule addressing the manner or method of hunting wild birds.

(3) Trapping, taxidermy, fur dealing, and wildlife meat cutting infractions:

(a) Recordkeeping and reporting: If a person is a taxidermist, fur dealer, or wildlife meat cutter who is processing, holding, or storing wildlife for commercial purposes, failing to:

(i) Maintain records as required by department rule; or

(ii) Report information from these records as required by department rule.

(b) Trapper's report: Failing to report trapping activity as required by department rule.

~~(4) ((Aquatic invasive species infraction: Entering Washington by road and transporting a recreational or commercial watercraft that has been used outside of Washington without meeting documentation requirements as provided under RCW 77.12.879.))~~ (a) Invasive species management infractions:

(i) Out-of-state documentation: Entering Washington in possession of an aquatic conveyance that does not meet documentation requirements as provided under section 112 of this act;

(ii) Clean and drain requirements: Possessing an aquatic conveyance that does not meet clean and drain requirements under section 113 of this act;

(iii) Clean and drain orders: Possessing an aquatic conveyance and failing to obey a clean and drain order under sections 113 or 114 of this act; and

(iv) Aquatic conveyance permits: Placing or using an aquatic conveyance on a water body of the state and failing to comply with aquatic conveyance permit requirements under sections 123 or 124 of this act.

(b) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and section 102 of this act apply throughout this subsection (4).

(5) Other infractions:

(a) Contests: Unlawfully conducting, holding, or sponsoring a hunting contest, a fishing contest involving game fish, or a competitive field trial using live wildlife.

(b) Other rules: Violating any other department rule that is designated by rule as an infraction.

(c) Posting signs: Posting signs preventing hunting or fishing on any land not owned or leased by the person doing the posting, or without the permission of the person who owns, leases, or controls the land posted.

(d) Scientific permits: Using a scientific permit issued by the director for fish, shellfish, or wildlife, but not including big game or big game parts, and the person:

- (i) Violates any terms or conditions of the scientific permit; or
- (ii) Violates any department rule applicable to the issuance or use of scientific permits.

~~((e) Transporting aquatic plants: Transporting aquatic plants on any state or public road, including forest roads. However:~~

~~—— (i) This subsection does not apply to plants that are:~~

~~—— (A) Being transported to the department or to another destination designated by the director, in a manner designated by the department, for purposes of identifying a species or reporting the presence of a species;~~

~~—— (B) Legally obtained for aquarium use, wetland or lakeshore restoration, or ornamental purposes;~~

~~—— (C) Located within or on a commercial aquatic plant harvester that is being transported to a suitable location to remove aquatic plants;~~

~~—— (D) Being transported in a manner that prevents their unintentional dispersal, to a suitable location for disposal, research, or educational purposes; or~~

~~—— (E) Being transported in such a way as the commission may otherwise prescribe; and~~

~~—— (ii) This subsection does not apply to a person who:~~

~~—— (A) Is stopped at an aquatic invasive species check station and possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive plant species if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or~~

~~—— (B) Has voluntarily submitted a recreational or commercial watercraft for inspection by the department or its designee and has received a receipt verifying that the watercraft has not been contaminated since its last use.))~~

NEW SECTION. **Sec. 205.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawful use of invasive species in the second degree if the person:

(a) Fails to stop if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer for inspection of an aquatic conveyance if the officer has reasonable suspicion that the aquatic conveyance does not meet clean and drain requirements or carries or contains a prohibited level 1, level 2, or level 3 species or a regulated type A species;

(b) Fails to stop at a mandatory check station or to return to the mandatory check station for inspection if directed to do so by a fish and wildlife officer or ex officio fish and wildlife officer;

(c) Fails to allow an aquatic conveyance stopped at a mandatory check station to be inspected for clean and drain requirements or aquatic invasive species;

(d) Fails to comply with a decontamination order;

(e) Possesses, except in the case of trafficking, a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule;

(f) Possesses, introduces on or into a water body or property, or traffics in a prohibited level 3 species without department authorization, a permit, or as otherwise provided by rule;

(g) Introduces on or into a water body or property a regulated type A, type B, or type C species without department authorization, a permit, or as otherwise provided by rule;

(h) Fails to readily and clearly identify in writing by taxonomic species name or subspecies name a regulated type B species used for commercial purposes;

(i) Fails to comply with a rapid response management action under section 108 of this act; or

(j) Fails to comply with an infested site management action under section 109 of this act.

(2) A violation of subsection (1) of this section is a gross misdemeanor. In addition to criminal penalties, a court may order the person to pay all costs in capturing, killing, or controlling the invasive species, including its progeny. This subsection does not affect the authority of the department to bring a separate civil

action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with the department directives pursuant to section 114 of this act for mandatory check stations. Such a person is exempt from criminal penalties under this section or section 206 of this act, and forfeiture under this chapter, unless the person has a prior conviction under those sections within the past five years;

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and immediately returning it to the water body from which it came; or

(c) Possessing or introducing aquatic invasive species by ballast water or ballast water discharge where managed by the department under chapter 77.120 RCW.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and section 102 of this act apply throughout this section.

NEW SECTION. **Sec. 206.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawful use of invasive species in the first degree if the person:

(a) Traffics or introduces on or into a water body or property a prohibited level 1 or level 2 species without department authorization, a permit, or as otherwise provided by rule; or

(b) Commits a subsequent violation of unlawful use of invasive species in the second degree within five years of the date of a prior conviction under section 205 of this act.

(2) A violation of this section is a class C felony. In addition to criminal penalties, a court may order the person to pay all costs

in managing the invasive species, including the species' progeny. This subsection does not affect the authority of the department to bring a separate civil action to recover habitat restoration costs necessitated by the person's unlawful use of invasive species.

(3) This section does not apply to:

(a) A person who complies with department directives pursuant to section 114 of this act for mandatory check stations, and who is exempt from criminal penalties under this section and forfeiture under this chapter, unless the person has a prior conviction under this section or section 205 of this act within the past five years; or

(b) A person who possesses an aquatic invasive species, if the person is in the process of:

(i) Removing it from the aquatic conveyance in a manner specified by the department; or

(ii) Releasing it if caught while fishing and is immediately returning it to the water body from which it came.

(4) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and section 102 of this act apply throughout this section.

PART 3

INVASIVE SPECIES--TECHNICAL PROVISIONS

Sec. 301. RCW 77.08.010 and 2012 c 176 s 4 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this title or rules adopted under this title unless the context clearly requires otherwise.

(1) "Anadromous game fish buyer" means a person who purchases or sells steelhead trout and other anadromous game fish harvested by Indian fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director.

(2) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(3) (~~("Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under subsections (4), (34), (49), (53), (70), and (71) of this section, aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).~~

~~——(4) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.~~

~~——(5))~~ "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

~~((+6))~~ (4) "Building" means a private domicile, garage, barn, or public or commercial building.

~~((+7))~~ (5) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

~~((+8))~~ (6) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

~~((+9))~~ (7) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

~~((+10))~~ (8) "Commercial" means related to or connected with buying, selling, or bartering.

~~((11))~~ (9) "Commission" means the state fish and wildlife commission.

~~((12))~~ (10) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

~~((13))~~ (11) "Contraband" means any property that is unlawful to produce or possess.

~~((14))~~ (12) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

~~((15))~~ (13) "Department" means the department of fish and wildlife.

~~((16))~~ (14) "Director" means the director of fish and wildlife.

~~((17))~~ (15) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

~~((18))~~ (16) "Ex officio fish and wildlife officer" means:

(a) A commissioned officer of a municipal, county, or state agency having as its primary function the enforcement of criminal laws in general, while the officer is acting in the respective jurisdiction of that agency;

(b) An officer or special agent commissioned by one of the following: The national marine fisheries service; the Washington state parks and recreation commission; the United States fish and wildlife service; the Washington state department of natural resources; the United States forest service; or the United States parks service, if the agent or officer is in the respective jurisdiction of the primary commissioning agency and is acting under a mutual law enforcement assistance agreement between the department and the primary commissioning agency;

(c) A commissioned fish and wildlife peace officer from another state who meets the training standards set by the Washington state criminal justice training commission pursuant to RCW 10.93.090, 43.101.080, and 43.101.200, and who is acting under a mutual law

enforcement assistance agreement between the department and the primary commissioning agency; or

(d) A Washington state tribal police officer who successfully completes the requirements set forth under RCW 43.101.157, is employed by a tribal nation that has complied with RCW 10.92.020(2) (a) and (b), and is acting under a mutual law enforcement assistance agreement between the department and the tribal government.

~~((19))~~ (17) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

~~((20))~~ (18) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

~~((21))~~ (19) "Fish broker" means a person whose business it is to bring a seller of fish and shellfish and a purchaser of those fish and shellfish together.

~~((22))~~ (20) "Fish buyer" means a person engaged by a wholesale fish dealer to purchase food fish or shellfish from a licensed commercial fisher.

~~((23))~~ (21) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

~~((24))~~ (22) "Food, food waste, or other substance" includes human and pet food or other waste or garbage that could attract large wild carnivores.

~~((25))~~ (23) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

~~((26))~~ (24) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

~~((27))~~ (25) "Fur dealer" means a person who purchases, receives, or resells raw furs for commercial purposes.

~~((28))~~ (26) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

~~((29))~~ (27) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

~~((30))~~ (28) "Game farm" means property on which wildlife is held, confined, propagated, hatched, fed, or otherwise raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

~~((31))~~ (29) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

~~((32))~~ (30) "Illegal items" means those items unlawful to be possessed.

~~((33))~~ (31)(a) "Intentionally feed, attempt to feed, or attract" means to purposefully or knowingly provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building.

(b) "Intentionally feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

~~((34)) "Invasive species" means a plant species or a nonnative animal species that either:~~

~~——(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;~~

~~——(b) Threatens or may threaten natural resources or their use in the state;~~

~~——(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or~~

~~——(d) Threatens or harms human health.~~

~~——(35))~~ (32) "Large wild carnivore" includes wild bear, cougar, and wolf.

~~((+36))~~ (33) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

~~((+37))~~ (34) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

~~((+38))~~ (35) "Money" means all currency, script, personal checks, money orders, or other negotiable instruments.

~~((+39))~~ (36) "Natural person" means a human being.

~~((+40))~~ (37)(a) "Negligently feed, attempt to feed, or attract" means to provide, leave, or place in, on, or about any land or building any food, food waste, or other substance that attracts or could attract large wild carnivores to that land or building, without the awareness that a reasonable person in the same situation would have with regard to the likelihood that the food, food waste, or other substance could attract large wild carnivores to the land or building.

(b) "Negligently feed, attempt to feed, or attract" does not include keeping food, food waste, or other substance in an enclosed garbage receptacle or other enclosed container unless specifically directed by a fish and wildlife officer or animal control authority to secure the receptacle or container in another manner.

~~((+41))~~ (38) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

~~((+42))~~ (39) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

~~((+43))~~ (40) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish,

take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

~~((44))~~ (41) "Owner" means the person in whom is vested the ownership dominion, or title of the property.

~~((45))~~ (42) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

~~((46))~~ (43) "Personal property" or "property" includes both corporeal and incorporeal personal property and includes, among other property, contraband and money.

~~((47))~~ (44) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

~~((48))~~ (45) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

~~((49)) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.~~

~~——(50))~~ (46) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

~~((51))~~ (47) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

~~((52)) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.~~

~~——(53) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.~~

~~((54))~~ (48) "Resident" has the same meaning as defined in RCW 77.08.075.

~~((55))~~ (49) "Retail-eligible species" means commercially harvested salmon, crab, and sturgeon.

~~((56))~~ (50) "Saltwater" means those marine waters seaward of river mouths.

~~((57))~~ (51) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

~~((58))~~ (52) "Senior" means a person seventy years old or older.

~~((59))~~ (53) "Shark fin" means a raw, dried, or otherwise processed detached fin or tail of a shark.

~~((60))~~ (54)(a) "Shark fin derivative product" means any product intended for use by humans or animals that is derived in whole or in part from shark fins or shark fin cartilage.

(b) "Shark fin derivative product" does not include a drug approved by the United States food and drug administration and available by prescription only or medical device or vaccine approved by the United States food and drug administration.

~~((61))~~ (55) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

~~((62))~~ (56) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

~~((63))~~ (57) "Taxidermist" means a person who, for commercial purposes, creates lifelike representations of fish and wildlife using fish and wildlife parts and various supporting structures.

~~((+64))~~ (58) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

~~((+65))~~ (59) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

~~((+66))~~ (60) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

~~((+67))~~ (61) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

~~((+68))~~ (62) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

~~((+69))~~ (63) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

~~((+70)) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.~~

~~——(71) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.~~

~~——(72))~~ (64) "Wholesale fish dealer" means a person who, acting for commercial purposes, takes possession or ownership of fish or shellfish and sells, barter, or exchanges or attempts to sell, barter, or exchange fish or shellfish that have been landed into the state of Washington or entered the state of Washington in interstate or foreign commerce.

~~((+73))~~ (65) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state. The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

~~((474))~~ (66) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

~~((475))~~ (67) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

~~((476))~~ (68) "Wildlife meat cutter" means a person who packs, cuts, processes, or stores wildlife for consumption for another for commercial purposes.

~~((477))~~ (69) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

Sec. 302. RCW 77.12.020 and 2002 c 281 s 3 are each amended to read as follows:

(1) The director shall investigate the habits and distribution of the various species of wildlife native to or adaptable to the habitats of the state. The commission shall determine whether a species should be managed by the department and, if so, classify it under this section.

(2) The commission may classify by rule wild animals as game animals and game animals as fur-bearing animals.

(3) The commission may classify by rule wild birds as game birds or predatory birds. All wild birds not otherwise classified are protected wildlife.

(4) In addition to those species listed in RCW 77.08.020, the commission may classify by rule as game fish other species of the class Osteichthyes that are commonly found in freshwater except those classified as food fish by the director.

(5) The director may recommend to the commission that a species of wildlife should not be hunted or fished. The commission may designate species of wildlife as protected.

(6) If the director determines that a species of wildlife is seriously threatened with extinction in the state of Washington, the director may request its designation as an endangered species. The commission may designate an endangered species.

(7) If the director determines that a species of the animal kingdom, not native to Washington, is dangerous to the environment or wildlife of the state, the director may request its designation as deleterious exotic wildlife. The commission may designate deleterious exotic wildlife.

(8) ~~((Upon recommendation by the director, the commission may classify nonnative aquatic animal species according to the following categories:~~

~~—— (a) Prohibited aquatic animal species: These species are considered by the commission to have a high risk of becoming an invasive species and may not be possessed, imported, purchased, sold, propagated, transported, or released into state waters except as provided in RCW 77.15.253;~~

~~—— (b) Regulated aquatic animal species: These species are considered by the commission to have some beneficial use along with a moderate, but manageable risk of becoming an invasive species, and may not be released into state waters, except as provided in RCW 77.15.253. The commission shall classify the following commercial aquaculture species as regulated aquatic animal species, and allow their release into state waters pursuant to rule of the commission: Pacific oyster (*Crassostrea gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster (*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam (*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and suminoe oyster (*Crassostrea ariakensis*);~~

~~—— (c) Unregulated aquatic animal species: These species are considered by the commission as having some beneficial use along with~~

~~a low risk of becoming an invasive species, and are not subject to regulation under this title;~~

~~—— (d) Unlisted aquatic animal species: These species are not designated as a prohibited aquatic animal species, regulated aquatic animal species, or unregulated aquatic animal species by the commission, and may not be released into state waters. Upon request, the commission may determine the appropriate category for an unlisted aquatic animal species and classify the species accordingly;~~

~~—— (e) This subsection (8) does not apply to the transportation or release of nonnative aquatic animal species by ballast water or ballast water discharge.~~

~~—— (9)) Upon recommendation by the director, the commission may develop a work plan to eradicate native aquatic species that threaten human health. Priority shall be given to water bodies that the department of health has classified as representing a threat to human health based on the presence of a native aquatic species.~~

Sec. 303. RCW 77.12.047 and 2001 c 253 s 14 are each amended to read as follows:

(1) The commission may adopt, amend, or repeal rules as follows:

(a) Specifying the times when the taking of wildlife, fish, or shellfish is lawful or unlawful.

(b) Specifying the areas and waters in which the taking and possession of wildlife, fish, or shellfish is lawful or unlawful.

(c) Specifying and defining the gear, appliances, or other equipment and methods that may be used to take wildlife, fish, or shellfish, and specifying the times, places, and manner in which the equipment may be used or possessed.

(d) Regulating the importation, transportation, possession, disposal, landing, and sale of wildlife, fish, shellfish, or seaweed within the state, whether acquired within or without the state.

(e) Regulating the prevention and suppression of diseases and pests affecting wildlife, fish, or shellfish.

(f) Regulating the size, sex, species, and quantities of wildlife, fish, or shellfish that may be taken, possessed, sold, or disposed of.

(g) Specifying the statistical and biological reports required from fishers, dealers, boathouses, or processors of wildlife, fish, or shellfish.

(h) Classifying species of marine and freshwater life as food fish or shellfish.

(i) Classifying the species of wildlife, fish, and shellfish that may be used for purposes other than human consumption.

(j) Regulating the taking, sale, possession, and distribution of wildlife, fish, shellfish, or deleterious exotic wildlife.

(k) Establishing game reserves and closed areas where hunting for wild animals or wild birds may be prohibited.

(l) Regulating the harvesting of fish, shellfish, and wildlife in the federal exclusive economic zone by vessels or individuals registered or licensed under the laws of this state.

(m) Authorizing issuance of permits to release, plant, or place fish or shellfish in state waters.

(n) Governing the possession of fish, shellfish, or wildlife so that the size, species, or sex can be determined visually in the field or while being transported.

(o) Regulating invasive species management, including possession and introduction of invasive species on or into a water body or property.

(p) Other rules necessary to carry out this title and the purposes and duties of the department.

(2) Subsection(~~(s)~~) (1)(a), (b), (c), (d), and (f) of this section (~~(d)~~) does not apply to private tideland owners and lessees and the immediate family members of the owners or lessees of state tidelands, when they take or possess oysters, clams, cockles, borers, or mussels, excluding razor clams, produced on their own private tidelands or their leased state tidelands for personal use.

"Immediate family member" for the purposes of this section means a spouse, brother, sister, grandparent, parent, child, or grandchild.

(3) Except for subsection (1)(g) of this section, this section does not apply to private sector cultured aquatic products as defined in RCW 15.85.020. Subsection (1)(g) of this section does apply to such products.

Sec. 304. RCW 77.15.080 and 2012 c 176 s 9 are each amended to read as follows:

~~((1))~~ Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title. Fish and wildlife officers and ex officio fish and wildlife officers also may request that the person write his or her signature for comparison with the signature on his or her fishing, harvesting, or hunting license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. Fish and wildlife officers may require the person, if age sixteen or older, to exhibit a driver's license or other photo identification.

~~((2) Based upon articulable facts that a person is transporting a prohibited aquatic animal species or any aquatic plant, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and inspect the watercraft to ensure that the watercraft and associated equipment are not transporting prohibited aquatic animal species or aquatic plants.))~~

Sec. 305. RCW 77.15.290 and 2012 c 176 s 21 are each amended to read as follows:

(1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule governing the transportation or movement of fish, shellfish, or wildlife and the transportation does not involve big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife having a value greater than two hundred fifty dollars; or

(b) Possesses but fails to affix or notch a big game transport tag as required by department rule.

(2) A person is guilty of unlawful transportation of fish or wildlife in the first degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any department rule governing the transportation or movement of fish, shellfish, or wildlife and the transportation involves big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife with a value of two hundred fifty dollars or more; or

(b) Knowingly transports shellfish, shellstock, or equipment used in commercial culturing, taking, handling, or processing shellfish without a permit required by authority of this title.

(3)(a) Unlawful transportation of fish or wildlife in the second degree is a misdemeanor.

(b) Unlawful transportation of fish or wildlife in the first degree is a gross misdemeanor.

(4) This section does not apply to(~~:(a) Any person stopped at an aquatic))~~ invasive species (~~(check station who possesses a recreational or commercial watercraft that is contaminated with an aquatic invasive species if that person complies with all department directives for the proper decontamination of the watercraft and equipment; or (b) any person who has voluntarily submitted a recreational or commercial watercraft for inspection by the department or its designee and has received a receipt verifying that the watercraft has not been contaminated since its last use))~~).

Sec. 306. RCW 43.06.010 and 1994 c 223 s 3 are each amended to read as follows:

In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a

felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) The governor, after finding that there exists an imminent danger of prohibited level 1 or level 2 species detection that seriously endangers or threatens the environment, economy, human health, or well-being of the state of Washington, may order emergency measures to prevent or abate the prohibited species, which measures, after thorough evaluation of all other alternatives, may include the surface or aerial application of pesticides;

(15) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming

Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands.

Sec. 307. RCW 43.43.400 and 2011 c 171 s 8 are each amended to read as follows:

(1) Funds in the aquatic invasive species enforcement account created in section 121 of this act may be appropriated to the Washington state patrol and the department of fish and wildlife.

(2) Funds must be expended by the Washington state patrol to inspect for the presence of aquatic invasive species on aquatic conveyances that are required to stop at a Washington state patrol port of entry weigh station.

(3) Unless the context clearly requires otherwise, the definitions in both RCW 77.08.010 and section 102 of this act apply throughout this section. ~~((The definitions in this subsection apply throughout this section unless the context clearly requires otherwise:~~

~~—— (a) "Aquatic invasive species" means any invasive, prohibited, regulated, unregulated, or unlisted aquatic animal or plant species as defined under RCW 77.08.010 [(3),] (28), (40), (44), (58), and (59), aquatic noxious weeds as defined under RCW 17.26.020(5)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).~~

~~—— (b) "Recreational and commercial watercraft" includes the boat, as well as equipment used to transport the boat, and any auxiliary equipment such as attached or detached outboard motors.~~

~~—— (2) (i) Establish random check stations, to inspect recreational and commercial watercraft as provided for in RCW 77.12.879(3);~~

~~—— (ii) Inspect or delegate inspection of recreational and commercial watercraft. If the department conducts the inspection, there will be no cost to the person requesting the inspection;~~

~~—— (iii) Provide training to all department employees that are deployed in the field to inspect recreational and commercial watercraft; and~~

~~—— (iv) Provide an inspection receipt verifying that the watercraft~~

~~is not contaminated after the watercraft has been inspected at a check station or has been inspected at the request of the owner of the recreational or commercial watercraft. The inspection receipt is valid until the watercraft is used again.~~

~~(4) The Washington state patrol and the department of fish and wildlife shall submit a biennial report to the appropriate legislative committees describing the actions taken to implement this section along with suggestions on how to better fulfill the intent of chapter 464, Laws of 2005. The first report is due December 1, 2007.)~~

Sec. 308. RCW 10.31.100 and 2013 2nd sp.s. c 35 s 22 are each amended to read as follows:

A police officer having probable cause to believe that a person has committed or is committing a felony shall have the authority to arrest the person without a warrant. A police officer may arrest a person without a warrant for committing a misdemeanor or gross misdemeanor only when the offense is committed in the presence of the officer, except as provided in subsections (1) through (11) of this section.

(1) Any police officer having probable cause to believe that a person has committed or is committing a misdemeanor or gross misdemeanor, involving physical harm or threats of harm to any person or property or the unlawful taking of property or involving the use or possession of cannabis, or involving the acquisition, possession, or consumption of alcohol by a person under the age of twenty-one years under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070 or 9A.52.080, shall have the authority to arrest the person.

(2) A police officer shall arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that:

(a) An order has been issued of which the person has knowledge under RCW 26.44.063, or chapter 7.-- (the new chapter created in section 33, chapter 84, Laws of 2013), 7.90, 9A.46, 10.99, 26.09, 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the

person has violated the terms of the order restraining the person from acts or threats of violence, or restraining the person from going onto the grounds of or entering a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location or, in the case of an order issued under RCW 26.44.063, imposing any other restrictions or conditions upon the person; or

(b) A foreign protection order, as defined in RCW 26.52.010, has been issued of which the person under restraint has knowledge and the person under restraint has violated a provision of the foreign protection order prohibiting the person under restraint from contacting or communicating with another person, or excluding the person under restraint from a residence, workplace, school, or day care, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, or a violation of any provision for which the foreign protection order specifically indicates that a violation will be a crime; or

(c) The person is sixteen years or older and within the preceding four hours has assaulted a family or household member as defined in RCW 10.99.020 and the officer believes: (i) A felonious assault has occurred; (ii) an assault has occurred which has resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not; or (iii) that any physical action has occurred which was intended to cause another person reasonably to fear imminent serious bodily injury or death. Bodily injury means physical pain, illness, or an impairment of physical condition. When the officer has probable cause to believe that family or household members have assaulted each other, the officer is not required to arrest both persons. The officer shall arrest the person whom the officer believes to be the primary physical aggressor. In making this determination, the officer shall make every reasonable effort to consider: (i) The intent to protect victims of domestic violence under RCW 10.99.010; (ii) the comparative extent of injuries inflicted or serious threats creating fear of physical injury; and (iii) the

history of domestic violence of each person involved, including whether the conduct was part of an ongoing pattern of abuse; or

(d) The person has violated RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and the police officer has knowledge that the person has a prior offense as defined in RCW 46.61.5055 within ten years.

(3) Any police officer having probable cause to believe that a person has committed or is committing a violation of any of the following traffic laws shall have the authority to arrest the person:

(a) RCW 46.52.010, relating to duty on striking an unattended car or other property;

(b) RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(c) RCW 46.61.500 or 46.61.530, relating to reckless driving or racing of vehicles;

(d) RCW 46.61.502 or 46.61.504, relating to persons under the influence of intoxicating liquor or drugs;

(e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol or THC in their system;

(f) RCW 46.20.342, relating to driving a motor vehicle while operator's license is suspended or revoked;

(g) RCW 46.61.5249, relating to operating a motor vehicle in a negligent manner.

(4) A law enforcement officer investigating at the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed in connection with the accident a violation of any traffic law or regulation.

(5)(a) A law enforcement officer investigating at the scene of a motor vessel accident may arrest the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a criminal violation of chapter 79A.60 RCW.

(b) A law enforcement officer investigating at the scene of a motor vessel accident may issue a citation for an infraction to the operator of a motor vessel involved in the accident if the officer has probable cause to believe that the operator has committed, in connection with the accident, a violation of any boating safety law of chapter 79A.60 RCW.

(6) Any police officer having probable cause to believe that a person has committed or is committing a violation of RCW 79A.60.040 shall have the authority to arrest the person.

(7) An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed, to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. The request by the witnessing officer shall give an officer the authority to take appropriate action under the laws of the state of Washington.

(8) Any police officer having probable cause to believe that a person has committed or is committing any act of indecent exposure, as defined in RCW 9A.88.010, may arrest the person.

(9) A police officer may arrest and take into custody, pending release on bail, personal recognizance, or court order, a person without a warrant when the officer has probable cause to believe that an order has been issued of which the person has knowledge under chapter 10.14 RCW and the person has violated the terms of that order.

(10) Any police officer having probable cause to believe that a person has, within twenty-four hours of the alleged violation, committed a violation of RCW 9A.50.020 may arrest such person.

(11) A police officer having probable cause to believe that a person illegally possesses or illegally has possessed a firearm or other dangerous weapon on private or public elementary or secondary school premises shall have the authority to arrest the person.

For purposes of this subsection, the term "firearm" has the meaning defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

(12) A law enforcement officer having probable cause to believe that a person has committed a violation under section 204(4) of this act may issue a citation for an infraction to the person in connection with the violation.

(13) A law enforcement officer having probable cause to believe that a person has committed a criminal violation under section 205 or 206 of this act may arrest the person in connection with the violation.

(14) Except as specifically provided in subsections (2), (3), (4), and (7) of this section, nothing in this section extends or otherwise affects the powers of arrest prescribed in Title 46 RCW.

~~((13))~~ (15) No police officer may be held criminally or civilly liable for making an arrest pursuant to subsection (2) or (9) of this section if the police officer acts in good faith and without malice.

Sec. 309. RCW 88.02.560 and 2011 c 171 § 129 are each amended to read as follows:

(1) An application for a vessel registration must be made by the owner or the owner's authorized representative to the department, county auditor or other agent, or subagent appointed by the director on a form furnished or approved by the department. The application must contain:

- (a) The name and address of each owner of the vessel;
- (b) Other information the department may require; and
- (c) The signature of at least one owner.

(2) The application for vessel registration must be accompanied by the:

(a) Vessel registration fee required under *RCW 88.02.640(1)(i);

(b) Derelict vessel ~~and invasive species~~ removal fee under RCW 88.02.640(3)(b) and derelict vessel removal surcharge required under RCW 88.02.640(4);

(c) Filing fee required under *RCW 88.02.640(1)(e);

(d) License plate technology fee required under *RCW 88.02.640(1)(f);

(e) License service fee required under *RCW 88.02.640(1)(g);
and

(f) Watercraft excise tax required under chapter 82.49 RCW;

(g) Aquatic invasive species fee required under section 310(1)(p) of this act; and

(h) Freshwater aquatic algae control fee required under section 310(1)(q) of this act.

(3) Upon receipt of an application for vessel registration and the required fees and taxes, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal must be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels required in 33 C.F.R. Part 174. A valid decal affixed as prescribed must indicate compliance with the annual registration requirements of this chapter.

(4) Vessel registrations and decals are valid for a period of one year, except that the director may extend or diminish vessel registration periods and vessel decals for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period.

(5) Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the fees and taxes described in subsection (2) of this section. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

(6) When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information must be provided to the department by the state

parks and recreation commission in a form ready for distribution. The form must be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

(7) A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department, county auditor or other agent, or subagent appointed by the director for transfer of the vessel registration, and the application must be accompanied by a transfer fee as required in *RCW 88.02.640(1) (1) .

Sec. 310. RCW 88.02.640 [Fees by type] and 2012 c 74 § 16 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director shall charge the following vessel fees and surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
(d) Duplicate	\$1.25	RCW	General fund

certificate of title		88.02.530 (1) (c)	
(e) Duplicate registration	\$1.25	RCW 88.02.590 (1) (c)	General fund
(f) Filing	RCW 46.17.005	RCW 88.02.560 (2)	RCW 46.68.400
(g) License plate technology	RCW 46.17.015	RCW 88.02.560 (2)	RCW 46.68.370
(h) License service	RCW 46.17.025	RCW 88.02.560 (2)	RCW 46.68.220
(i) Nonresident vessel permit	\$25.00	RCW 88.02.620 (3)	Subsection (57) of this section
(j) Quick title service	\$50.00	RCW 88.02.540 (3)	Subsection (79) of this section
(k) Registration	\$10.50	RCW 88.02.560 (2)	RCW 88.02.650
(l) Replacement decal	\$1.25	RCW 88.02.595 (1) (c)	General fund
(m) Title application	\$5.00	RCW 88.02.515	General fund
(n) Transfer	\$1.00	RCW 88.02.560 (7)	General fund
(o) Vessel visitor permit	\$30.00	RCW 88.02.610 (3)	Subsection (8) of this section
<u>(p) Aquatic Invasive Species</u>	<u>Subsection (5) of this section</u>	<u>Subsection (5) of this section</u>	<u>Subsection (5) of this section</u>
<u>(q) Freshwater aquatic algae control</u>	<u>Subsection (6) of this section</u>	<u>Subsection (6) of this section</u>	<u>Subsection (6) of this section</u>

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3)(a) The derelict vessel ~~and invasive species~~ removal fee required in subsection (1) of this section is ~~five dollars and must be distributed as follows:~~

~~(i) One dollar and fifty cents must be deposited in the aquatic invasive species prevention account created in RCW 77.12.879;~~

~~(ii) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667;~~

~~(iii) Fifty cents must be deposited into the aquatic invasive species enforcement account created in RCW 43.43.400; and~~

~~(iv) T~~two dollars and must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(b) If the department of natural resources indicates that the balance of the derelict vessel removal account, not including any transfer or appropriation of funds into the account or funds deposited into the account collected under subsection (5) of this section reaches one million dollars as of March 1st of any year, the collection of the two dollars of the derelict vessel and invasive species removal fee that is deposited into the derelict vessel removal account as authorized in (a)(iv) of this subsection must be suspended for the following fiscal year.

(4) Until January 1, 2014, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge:

(a) Is to address the significant backlog of derelict vessels accumulated in Washington state waters that pose a threat to the health and safety of the people and to the environment;

(b) Is to be used only for the removal of vessels that are less than seventy-five feet in length; and

(c) Must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5) The aquatic invasive species fee required in subsection (1) of this section is two dollars and must be distributed as follows:

(a) One dollar and thirty cents must be deposited into the aquatic invasive species prevention account created in section 119 of this act;

(b) Seventy cents must be deposited into the aquatic invasive species enforcement account created in section 121 of this act.

(6) The freshwater aquatic algae control fee required in subsection (1) of this section is one dollar and must be deposited into the aquatic algae control account created in RCW 43.21A.667.

~~(57)~~ The twenty-five dollar nonresident vessel permit fee must be paid by the vessel owner to the department for the cost of providing the identification document by the department. Any moneys remaining from the fee after the payment of costs must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

~~(68)~~ The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

~~(79)~~ (a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent or subagent appointed by the director, twenty-five

dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

NEW SECTION. **Sec. 311.** The following acts or parts of acts are each repealed:

(1) RCW 77.12.875 (Prohibited aquatic animal species--Infested state waters) and 2002 c 281 s 5;

(2) RCW 77.12.878 (Infested waters--Rapid response plan) and 2002 c 281 s 6;

(3) RCW 77.12.879 (Aquatic invasive species prevention account--Aquatic invasive species prevention program for recreational and commercial watercraft--Enforcement program--Check stations--Training--Report to the legislature) and 2013 c 307 s 1, 2011 c 171 s 113, 2011 c 169 s 4, 2009 c 333 s 22, 2007 c 350 s 3, & 2005 c 464 s 3;

(4) RCW 77.12.882 (Aquatic invasive species--Inspection of recreational and commercial watercraft--Rules--Signage) and 2007 c 350 s 4;

(5) RCW 77.15.253 (Unlawful use of prohibited aquatic animal species--Penalty) and 2007 c 350 s 5 & 2002 c 281 s 4;

(6) RCW 77.15.293 (Unlawfully avoiding aquatic invasive species check stations--Penalty) and 2007 c 350 s 7;

(7) RCW 77.60.110 (Zebra mussels and European green crabs--Draft rules--Prevention of introduction and dispersal) and 1998 c 153 s 2; and

(8) RCW 77.60.120 (Infested waters--List published) and 1998 c 153 s 3.

- END -